

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

RICKY LANEY

Plaintiff,

V.

CARL CAIN and WILLIAM NORTHCUTT

Defendants.

Case No.: 2:06-cv-0658-SLB-PWG

MEMORANDUM OF OPINION

Plaintiff Ricky Laney, an Alabama prisoner, initiated this action against defendants, Carl Cain and William Northcutt, alleging that his constitutional rights were violated in connection with a disciplinary hearing, in which plaintiff was charged with escaping without force. The magistrate judge filed a report and recommendation on October 11, 2006, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed for failing to state a claim upon which relief can be granted under 28 U.S.C. § 1915A(b).

In the October 11, 2006, report and recommendation, the magistrate judge stated that it was unclear from plaintiff's complaint whether the hearing referenced in the complaint was a criminal proceeding which resulted in a new conviction or an internal disciplinary proceeding resulting in plaintiff's removal from his work release program. The plaintiff filed objections to the report and recommendation on November 2, 2006, identifying the hearing as an Alabama Department of Corrections disciplinary proceeding and requesting relief based on the deprivation of plaintiff's rights to call witnesses to testify on plaintiff's behalf. As stated in the report and recommendation, however, "a convict whose community placement is revoked is entitled to due process 'only if the

State of Alabama has created a constitutionally protected interest in his continued participation in the program. (citations omitted) . . . “The Eleventh Circuit Court of Appeals . . . has held that Alabama law does not create a liberty interest in obtaining work release.”

Accordingly, having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby **ADOPTED** and the recommendation is **ACCEPTED**. Accordingly, the complaint is due to be dismissed for failing to state a claim upon which relief can be granted, or seeking monetary relief from a defendant who is immune pursuant to 28 U.S.C. § 1915A(b). A Final Judgment will be entered.

DATED this 1st day of December, 2006.

A handwritten signature in black ink, reading "Sharon Lovelace Blackburn". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

SHARON LOVELACE BLACKBURN
CHIEF UNITED STATES DISTRICT JUDGE